

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Justin Dale Church,

Case No. 24-cv-1235 (JRT/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Paul Schnell, et al.,

Defendants.

On April 18, 2024, this Court entered an order requiring Plaintiff Justin Dale Church to submit an initial partial filing fee of \$10.10 if he wanted this action to continue. See Order 2, Dkt. No. 4. The Court gave Church 21 days—that is, until May 9, 2024—to pay the fee, failing which the Court would recommend dismissing this action without prejudice for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. That deadline has passed, and Church has not submitted the initial partial filing fee. The Court thus recommends dismissing this action without prejudice for failure to prosecute. See, e.g., *Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Given this recommendation, the Court further recommends denying as moot Church’s pending *in forma pauperis* application, Dkt. No. 2.

RECOMMENDATION

For the reasons set forth above, the Court RECOMMENDS THAT:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

2. Plaintiff Justin Dale Church's application to proceed *in forma pauperis*, Dkt. No. 4, be **DENIED** as moot.

Dated: May 17, 2024

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).